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West 107th Street Tenants*

UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

In Re:

203 W 107 STREET LLC et al.

Debtors

Case No. 20-12960 (LGB)  
Chapter 11  
Jointly Administered

**STATUS REPORT OF THE AD HOC GROUP OF WEST 107<sup>TH</sup> STREET  
TENANTS REGARDING BUILDING MANAGEMENT ISSUES**

1. In view of the Debtors repetition of the false claim that there have been no issues breaching the warranty of habitability since January 1, 2022, the Ad Hoc Group of West 107<sup>th</sup> Street Tenants (the “Ad Hoc Group”) submits this Status Report to apprise the Court of outstanding conditions at the four West 107<sup>th</sup> Street buildings involved in this consolidated proceeding.<sup>1</sup>

2. Although there were numerous conditions since January 1, 2022 breaching the warranty of habitability, including outages of heat and hot water during the winter heating season, interruptions of elevator service, infestation of vermin and many individual apartment repair issues, this report will focus only on those issues currently outstanding.

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<sup>1</sup> 203, 210, 220 and 230 West 107<sup>th</sup> Street, New York NY 10025

### **220 W 107<sup>th</sup> Street Fire Escape Rent Impairing Violation**

3. The New York City Department of Housing Preservation and Development issued Violation No. 14569095 on September 22, 2021 for the fire escape with loose slats at the second floor balcony at building front, second stack from east at south. The Debtor's falsely reported to the Court that the violation was corrected on February 15, 2022 (ECF#24 at 8). This report to the Court was false. The HPD violation report shows that HPD re-inspected the condition on March 16, 2022 and noted "not complied."

4. On August 4, 2022, Amanda Levine and Andrew Goltz recorded short videos that show the fire escape slates were not secured as required. Those videos are uploaded to Dropbox.

<https://www.dropbox.com/scl/fo/w7mwkefvmnt5nkrwwzs1e/h?dl=0&rlkey=s60xp2nonmfwkagdxw9y0xfya>



5. In *Food First HDfC, Inc. v Turner*, 69 Misc3d 1202 (Civ. Ct. 2020), the Housing Part soundly rejected the landlord's argument that it should not be penalized by a rent impairing violation in the public parts of the building. The court explained that when a violation is corrected in the middle of the month, then the landlord forfeits the entire month's rent if the violation was outstanding at least six months on the first day of the month. So in this case, where the violation was recorded on September 22, 2021, the landlord has not been entitled to collect any rent for 220 West 107<sup>th</sup> Street from

April 1, 2022 continuing until the fire escape is properly repaired. New York Multiple Dwelling Law § 302-a.

**The buildings are not properly registered with the NYC Department of Housing Preservation and Development**

6. New York Multiple Dwelling Law § 325 requires that the owner of every multiple dwelling in New York City, including the managing agent, register with the Department of Housing Preservation and Development. The details regarding registration are contained in the New York City Housing Maintenance Code, NYC Admin. Code §§ 27-2097 et seq. Although Tri-Hill began managing the buildings in January of 2021, it did not finally register with HPD until August 2021 after repeated complaints from the Ad Hoc Group. It registered Samuel Barkoff as the managing agent.

7. Mr. Barkoff ceased to be employed by Tri-Hill in May 2022. Nevertheless, in violation of Housing Maintenance Code § 27-2101, the building owners have not designated a new managing agent. The violation reports of the Department of Housing Preservation and Development show that the old registrations have expired and have not been renewed.<sup>2</sup> Multiple Dwelling Law § 325(2) provides “no rent shall be recovered by the owner of a multiple dwelling who fails to comply with such registration requirements until he complies with such requirements.” Once again, the Court should direct the Debtors to register properly with the Department of Housing Preservation and Development.

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<sup>2</sup> Multiple Dwelling Law § 328(3) provides that the computerized violation files of the Department of Housing Preservation and Development “are prima facie evidence of any matter stated therein and the courts shall take judicial notice thereof as if same were certified as true under the seal and signature of the commissioner of that department.” The current reports, downloaded September 5, 2022 are filed together with this report.

### **Building-Wide Issues Reported by the Tenants**

8. The tenants of 203 West 107<sup>th</sup> Street report the following issues:

- a) **Basement:** Label the trash bins and either add two more or require the super to empty the bins on Saturday afternoons. It's a disaster area on Sundays... Labels should be: Recycling/Paper, Recycling/Other and Trash.

The Department of Sanitation has official recycling signs which should be posted.

They should clean the basement much better, especially on Fridays during Summer.

The basement stinks horribly from Friday evening to Monday morning, and with it also the elevator.

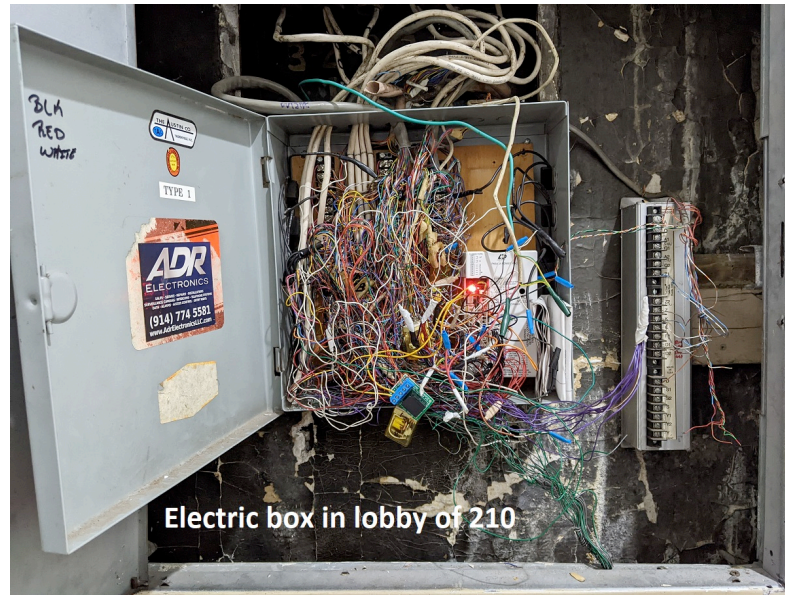
- b) **Roof:** Please provide confirmation that the water tower and roof were properly repaired?
- c) **Elevator Doors: They need to be painted. It's been YEARS!**
- d) **Cleanliness of Building:**  
FLOORS AND STEPS are rarely washed, as well as banisters from the 1st floor to the 9th. (The amount of dust on the out-of-order fire hoses is years old!) A thorough cleaning is in order and the cleaning should be done at least two times a week, including the inside of the elevator. The elevator stench is a big problem especially on weekends!  
**SUGGESTION:** Hire an extra cleaner so residents don't have to face the inadequate amount of cleaning, which is really too much for just one porter!
- e) **The bedbug situation in 8A** is a disaster waiting to happen and tenants request a report about what is being done. (bed bugs move fast)
- f) When the Super is away tenants are not informed if someone is covering for him. This should be a given and Management can send an email PLUS post notices in the building. The weekends are the worst times.
- g) **Building Access:** Tenants want confirmation that there will be no future lockouts because the building access code is changed without notice.
- h) Outside Front Door the crack in the sidewalk is getting bigger and is a trip hazard.
- i) There is a Buildings Department violation for failure to file the required Façade Inspection Safety Program report (FISP-Local Law 11)



j) There is a Building Department violation regarding elevator maintenance.

9. The tenants of **210 West 107<sup>th</sup> Street** report the following issues:

a) **Lobby:** Exposed electrical wires; floor tiles cracked; wallpaper is filthy and falling off



b) **Basement** is filthy, requires painting and cleaning; crack and falling plaster in laundry room; hot water pump leaks; infested with bugs.



- c) **Garbage room:** (there is NO staff at all on weekends). No one available or on duty at all on weekends (garbage sits there all weekend long in every garbage room).
- d) **Elevator:** There are two open “immediately hazardous” Building Department violations for failure to maintain the elevator.
- e) **Rear exterior wall:** cracked and requires pointing in order to avoid leaks. See photograph below.



- f) There are 35 open violations before the Environmental Control Board.

10. The tenants of **220 West 107<sup>th</sup> Street** report the following issues:

- a) **Fire Escapes** (especially outside of apt 2B) are broken and dangerous.
- b) Building continues to be dirty and not cleaned properly or often enough (there is NO staff at all on weekends). No one is available or on duty at all on weekends (garbage sits there all weekend long in every garbage room).
- c) **Security Cameras** in building inoperable (covered in paint and no password access).
- d) Basement is filthy still (laundry room, storage room etc).



- e) Lighting insufficient between 220 and 230 (security risk) alleyway. There is NO lighting or cameras in-between the 2 buildings . This is the only building on the block like this without sufficient lighting. There used to be a bright spotlight but they no longer turn it on in that specific alleyway. There are people doing drugs, defecating and urinating there at night and is is not safe.
- f) Elevator is in bad shape and not consistent (and not clean). Has the help button been fixed? It was not working.
- g) Sidewalks outside of buildings need deep cleaning (power wash) at least every quarter.They are filthy. This lends the buildings to welcome rodents. There is garbage juice, stains and other things that entice rats that can easily be cleaned like they do at building 230. The maintenance at 230 is very different than 220. They use bleach on their sidewalks at 230. Why is this not happening at 220 as well?
- h) There are new rat holes in front of the building; there are two new rat-sized holes at the bottom of the gate / fence leading to the basement at 220.
- i) Lobby is dirty (floors, windowsills, tables, doors, railings, hallways, etc). Shouldn't this be mopped and cleaned every day (sans weekends)?
- j) As of July, there has been an uptick of waterbugs and roaches in the building. (The exterminator has been made aware by tenants and was asked to do the garbage rooms and lobby). This is an indication of insufficient garbage pickup and substandard cleanliness of common areas, garbage rooms and garbage chutes.
- k) Stair railing on some floors broken (3 and 4th floor we believe).
- l) The ramp leading into the basement from the street is still a major hazard and several people including staff (Julio) have slipped and gotten hurt when wet. There is no rubber covering of any kind. One tenant was recently seriously injured. He can provide an affidavit.
- m) Tenants would like to see some documentation that management has contracted with a professional chute cleaning company for regular scheduled maintenance of garbage chutes. Unless this occurs building will continue to suffer from vermin.
- n) Tenants express concern that all necessary bedbug mitigation has taken place. Have their been recent cases of bedbugs? This was a big problem at one point and tenants would like to be assured that it is no longer a problem in 220.
- o) There are seven open violations before the Environmental Control Board including violations for failure to maintain the exterior façade and for failure to file the required Façade Inspection Safety Program report (FISP-Local Law 11)

11. The tenants of 230 West 107<sup>th</sup> Street report the following issues:

**(a) LAUNDRY ROOM FLOOR**

The floor of the laundry room has a big strip of tiles missing and is a huge trip hazard. Management did repairs to the walkway leading into the laundry room/emergency exit/storage rooms and have left a 'speed hump' approximately 5 inches high, which is a trip hazard.

**(b) GARBAGE ROOMS ON EACH FLOOR INFESTED WITH COCKROACHES**

The garbage rooms are infested with cockroaches. It is not evident that the exterminator addresses the garbage rooms on a regular basis.

**(c) FIRE DOORS ON EVERY FLOOR OF THE BUILDING**

The tenants have raised concerns about the hallway fire doors because the door closers are not functioning properly. They report that it is hard to pass through the 2 doors without getting caught/smashed between the doors. Tenants report that the condition is especially dangerous when carrying a package or escorting a young child, you can really get smacked by the two independent doors.

(d) There are 32 open violations before the Environmental Control Board including failure to maintain the elevator.

12. The most significant complaint repeated over and over again by the tenants in all four buildings relates to the cleanliness of the garbage rooms, the garbage chutes and refuse removal—issues central to combating rat and vermin infestation. They are particularly concerned about the lack of staff to handle garbage during the weekend. We have requested that management provide us with its protocols on the frequency of cleaning so the tenants can monitor the process and report to management when the protocols are not followed.

**Rent Statements**

13. Although the tenants have complied with the Court's order to pay their August and subsequent rents to building management, the tenants report that

management's rent statements have not properly accounted for their August rent payments.

**Individual Apartments**

14. There are ongoing communications regarding repair issues outstanding in individual apartments:

203-5B (Goff)

203-6B (Laguerre)

203-4A (Elsass-Greentree)

210-5A (Arenas)

220-2C (Leaf-Ackerberg)

220-4E (Potash)

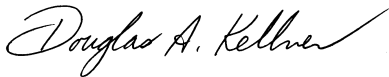
220-5H (Daly)

In view of the ongoing communications, none of the individual apartment issues require court intervention at this time.

Dated: September 5, 2022

Respectfully submitted,

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